

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ANN MARIE AUSTIN,

Plaintiff,

v.

PHILLIP MORRIS, USA,

Defendant.

ORDER

08-cv-244-bbc

On May 7, 2008, I denied plaintiff Ann Marie Austin's motion for leave to proceed in forma pauperis and dismissed her case for lack of subject matter jurisdiction after concluding that it was impossible to make out from her allegations what possible claim she might have against the respondent. On May 29, 2008, I denied plaintiff's motions for my recusal and to alter or amend the judgment pursuant to Fed. R. Civ. P. 59. After being granted an extension to file her notice of appeal, plaintiff filed it on July 29, 2008. I denied her request to proceed in forma pauperis on appeal because I certified that her appeal was not taken in good faith. On December 1, 2008, she paid the \$455 fee for filing an appeal and her appeal is pending.

Now before the court are plaintiff's motions for a discretionary remand of her case from the court of appeals and for an expedited ruling on that motion. It appears that plaintiff is seeking to have her case returned to this court so that she can amend her complaint. Unfortunately, it is too late for her to do so. This court has decided her case and her appeal of that decision is pending. The court of appeals has jurisdiction over her appeal, not this court. Therefore, plaintiff's motion for a discretionary remand must be denied. Her motion for expedited review will be denied as moot.

On July 1, 2009, plaintiff filed motions to submit a claim and to submit evidence. The next day she filed a motion requesting that I hold these motions in abeyance until further notice. Because I have heard nothing further from plaintiff on these motions, I will consider that she has withdrawn them.

ORDER

IT IS ORDERED that:

1. Plaintiff's motion for an expedited ruling on her motion for a discretionary remand dkt. #20, is DENIED as moot.
2. Plaintiff's motion for a discretionary remand of her case from the court of appeals, dkt. #19, is DENIED.
3. Plaintiff's motions to submit evidence, dkt.#17, and to submit claim, dkt. #16,

are considered WITHDRAWN. The motion to hold in abeyance a decision on her motions, dkt. #18, is DENIED.

Entered this 31st day of July, 2009.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge